

ORAL ARGUMENT NOT YET SCHEDULED**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA**

IN RE EAST YARD COMMUNITIES
FOR ENVIRONMENTAL JUSTICE
ET AL.,

Petitioners,

v.

UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY ET AL.,

Respondents.

Case No. 21–1271

JOINT MOTION FOR ABEYANCE
PENDING COMPLETION OF
SETTLEMENT OBLIGATIONS

Before the Court is a petition for a writ of mandamus, filed by East Yard Communities for Environmental Justice et al. on December 21, 2021, relating to the regulation of emissions from large municipal waste combustors under the Clean Air Act. Petitioners filed a parallel suit relating to the regulation of large municipal waste combustors in the U.S. District Court for the District of Columbia, *East Yard Communities for Environmental Justice v. EPA*, No. 22-cv-0094 (D.D.C.).

The Parties have reached a settlement to resolve both cases, memorialized in a Consent Decree that has now been entered in the district court case. ECF No. 30,

(“Consent Decree”), *East Yard Communities for Environmental Justice v. EPA*, No. 22-cv-0094 (D.D.C. Nov. 9, 2023) (attached here as Exhibit 1). EPA previously sought public comment on the Consent Decree. 88 Fed. Reg. 38,859 (June 14, 2023).

Under the terms of the Consent Decree, no later than December 31, 2023, EPA shall sign a notice of proposed rulemaking that proposes to review and if appropriate revise, in accordance with Section 129 of the Clean Air Act, 42 U.S.C. § 7429, the emission standards for large municipal waste combustors. Consent Decree at ¶ 4. Among other things, the Consent Decree also requires EPA to sign a final rule reviewing, and if appropriate revising, the emission standards for large municipal waste combustors no later than November 30, 2024. *Id.* at ¶ 5, 6. The district court suit shall remain under that court’s jurisdiction while EPA completes the obligations described above. *Id.* at ¶ 9.

Consistent with the terms of the Consent Decree, the Parties move this Court to hold the present petition in abeyance pending EPA’s completion of its obligations under Paragraphs 4 through 6 of the Consent Decree. *See id.* at ¶ 8. Further consistent with the terms of the Consent Decree, Petitioners shall move to voluntarily withdraw this Petition once those obligations have been completed. *Id.*

The parties therefore respectfully request that this matter be held in abeyance pending EPA’s completion of its obligations under the Consent Decree in *East*

Yard Communities for Environmental Justice v. EPA, No. 22-cv-0094 (D.D.C.

Nov. 9, 2023), with a status report or motion to govern further proceedings due on December 6, 2024.

Respectfully submitted on December 6, 2023,

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